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STATE OF WISCONSIN
TAX APPEALS COMMISSION

STATE OF WISCONSIN
DEPARTMENT OF REVENUE
RECEIVED
JUL 17 1985
LEGAL DIVISION

RONALD L. MC CREADY	:	
286 Summit Avenue, North	:	
Amery, WI 54001	:	DOCKET NO. I-11246
	:	
Petitioner,	:	RULING AND ORDER ON
	:	
vs.	:	MOTION FOR JUDGMENT
	:	
WISCONSIN DEPARTMENT OF REVENUE	:	ON THE PLEADINGS OR
P.O. Box 8933	:	
Madison, WI 53708	:	FOR SUMMARY JUDGMENT
	:	
Respondent.	:	

Pursuant to this Commission's notice, this Commission convened in Room 611A, GEF-2 Building, 101 S. Webster Street, Madison, Wisconsin, at 11:00 a.m., on June 25, 1985, for the purpose of hearing respondent's motion for an order granting judgment on the pleadings or for summary judgment in the above-entitled matter on the following grounds:

That petitioner has failed to state a claim upon which relief can be granted; that the petition for review and petition for redetermination fail to allege any justiciable error of fact or law pertaining to the assessment in issue; that the petition for review and petition for redetermination fail to state any justiciable controversy but instead raise a series of "objections" which have been repeatedly held frivolous in both federal and State courts and before this Commission; and that secs. 802.06(3) and 802.08, Wis. Stats., and ss. TA 1.15, 1.31 and 1.39, Wis. Adm. Code, require the granting of respondent's motion.

The Commission's notice, in addition, stated that the

hearing on the motion was to include the petitioner's motion for summary judgment on the following grounds:

That there is no genuine issue as to any material fact, and that the petitioner is entitled to judgment as a matter of law, pursuant to Rule 802.08, Wisconsin Rules of Civil Procedure, Chapter 73.01(5)(a), Wis. Stats., and Chapter TA 1.19, Practice and Procedure Before the Tax Appeals Commission.

The petitioner, Ronald L. McCready, appeared in person and as his own representative. The respondent, Wisconsin Department of Revenue, appeared by its attorney, Veronica Folstad, who introduced exhibits and then moved for judgment on the pleadings or for summary judgment on the grounds stated above. The petitioner objected to the granting of respondent's motion, and both parties offered oral arguments on the motion.

There was no testimony, evidence or arguments presented on petitioner's motion for summary judgment.

Having considered the record herein, the respondent's motion for judgment on the pleadings or for summary judgment, and the oral arguments of the parties thereon, this Commission hereby finds and decides as follows:

1. Under date of April 13, 1984, petitioner submitted to respondent a signed 1983 Wisconsin Form 1 Long Form income tax form. Said form contained the words "none" or "object" on all lines pertaining to petitioner's taxable income.

2. Pursuant to sec. 71.11(4), Wis. Stats., respondent made an estimated assessment of income tax against the petitioner, dated September 3, 1984, in the total amount of \$1,450.00.

4. Under date of November 7, 1984, petitioner filed with

respondent a letter objecting to respondent's estimated assessment on the grounds that he had validly claimed his right against self-incrimination, that he cannot lawfully be coerced or compelled to waive such right, and that respondent's assessment constitutes a felony under Title 18 USC, Section 241 and 242. Said letter was treated by respondent as a petition for redetermination.

5. Under date of January 28, 1985, respondent issued to petitioner, by certified mail, notice of denial of the petition for redetermination.

6. On March 18, 1985, petitioner filed a petition for review with this Commission, which petition contained a series of objections to respondent's estimated assessment, along with the following language: "WHEREFORE, Petitioner respectfully requests that the subject Notice of Amount Due, be dismissed and that Respondent be ordered to pay all Petitioner's costs and disbursements."

7. The petitioner's 1983 Wisconsin Form 1 Long Form, as submitted to respondent, does not constitute the filing of a proper Wisconsin income tax return.

8. At the hearing on the motions, petitioner objected to respondent's motion on the grounds that respondent had not timely or properly answered the petition for review filed with this Commission.

9. Respondent properly assessed petitioner for the year 1983 by estimating his income for such year.

10. Petitioner failed to present any evidence to overcome the presumption of correctness inherent in respondent's estimated assessment.

11. The arguments made by petitioner in his petition for redetermination and petition for review in this matter have been continuously rejected by the courts of this State and are totally frivolous.

12. Respondent has shown good and sufficient cause for the granting of its motion for summary judgment, in that there is no genuine issue as to any material fact; and the respondent is entitled to an order affirming its estimated assessment as a matter of law pursuant to sec. 802.06(3), Wis. Stats., or in the alternative, pursuant to sec. 802.08, Wis. Stats.

13. Petitioner has shown no cause for the granting of his motion for summary judgment.

AUTHORITY: Daniel T. Betow v. Wisconsin Department of Revenue, Wisconsin Tax Appeals Commission Docket No. I-8737, CCH Wisconsin State Tax Reporter, New Matters (Part II), 1979-82, para. 202-032 (June 10, 1982), affirmed Rock County Circuit Court, Branch 5, case No. 82-CV-311 (January 14, 1983), affirmed Court of Appeals, Case No. 83-264 (unpublished, November 22, 1983).

Paul W. and Yvonne D. Christian v. Wisconsin Department of Revenue, Circuit Court for Marathon County, Branch IV, Case No. 82-CV-1208 (May 4, 1984).

Donald G. Tracy and Shirley Tracy v. Wisconsin Department of Revenue, Wisconsin Tax Appeals Commission Docket Nos. I-10384 and I-10385, March 26, 1984, affirmed Rock County Circuit court, Branch I, Case No. 84-CV-294, November 30, 1984.

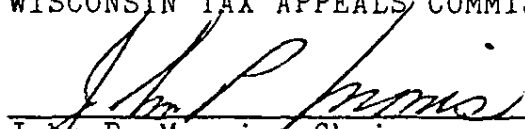
That petitioner's motion for summary judgment is hereby denied, and no costs shall be awarded;

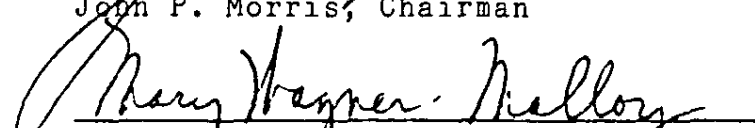
That respondent's motion for summary judgment is hereby granted, and summary judgment for the respondent is entered accordingly.

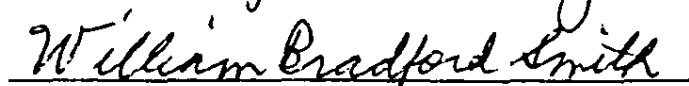
Dated at Madison, Wisconsin, this 9th day of July,

1985.

WISCONSIN TAX APPEALS COMMISSION


John P. Morris, Chairman


Mary Wagner-Malloy, Commissioner


William Bradford Smith, Commissioner

cc: Petitioner
Respondent

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"